

FINLAND

Little or no enforcement

0.4% of global exports

Investigations and cases

In the period 2016-2019, Finland opened no new investigations, commenced no cases and concluded no cases with sanctions.

Recent developments

An amendment was made to the Tax Information Disclosure Act which allows the tax authorities, on their own initiative, to provide otherwise confidential tax information to the police regarding suspected corruption. The Prosecution Service has been reorganised to make it easier to use specialised prosecutors.

The government has begun several projects to improve the enforcement of anti-corruption laws and to implement the recommendations made in the OECD WGB Phase 4 Report in 2017 – including on whistleblower protection, laws concerning publicity of documents, a lobbyist register, money laundering, corporate criminal liability and strategies to fight corruption. These are in preparation and no government measures or proposals have yet been put to Parliament.¹ In early 2020, a guidance document for small and medium-sized enterprises was published, covering corruption, including foreign bribery.²

The Financial Action Task Force (FATF) report on Finland in 2019 found significant shortcomings, in particular in the transparency regime applicable to legal persons, the supervisory measures applicable to certain types of “non-financial” businesses

(designated non-financial businesses and professions), and the sanctions regime for failure to comply with the requirements for preventive measures in general.³

Transparency of enforcement information

Finnish authorities do not publish statistics on foreign bribery investigations, cases commenced or cases concluded. The police, the Ministry of Justice, the National Prosecution Authority and the Statistical Centre all publish various statistics about crimes and investigations.⁴ However, this information is mostly general, which means extracting relevant information is time-consuming and difficult. Information on requests for mutual legal assistance (MLA) is not publicly available, although according to the OECD WGB, Finland has been active in seeking MLA in foreign bribery cases.⁵

All court decisions are public, unless specifically declared partially or totally confidential (for example, to protect trade secrets). Court decisions and the relevant details of the crime are available to the media and the public on request.

Beneficial ownership transparency

In 2019, a Beneficial Owner Register was established, covering persons controlling more than 25 per cent of an entity, maintained by the Finnish Patent and Registration Office.⁶ Organisations such as limited liability companies and cooperatives were required to file a notification of beneficial owners by 1 July 2020, but this deadline was unlikely to be met. Trusts do not exist in Finland, but foreign trusts are subject to the same rules as domestic companies and other legal entities. The information in the register is not publicly accessible, but is available to agencies requiring access for anti-money laundering purposes and to enforcement authorities in connection with a criminal investigation.

¹ <https://valtioneuvosto.fi/en/projects-and-legislation>

² http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162227/MEAE_guidelines_2b_2020_ENG_Anti_corruption_guide_for_SMES_07052020.pdf?sequence=1&isAllowed=y

³ FATF, Anti-money laundering and counter-terrorist financing measures in Finland, 2019, www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Finland-2019.pdf

⁴ https://www.stat.fi/til/oik_en.html.

⁵ <http://www.oecd.org/corruption/Finland-phase-4-follow-up-report-ENG.pdf>

⁶ Introduced by amendment 28.6.2017/447 to the Trade Register Act.

The Beneficial Owner Register was very incomplete at the end of 2019. This should improve after the deadline in 2020, if the Registration Office pressures non-compliant companies. However, there are questions as to the accuracy of the information that is and will be held in the Register.

Banks and companies with anti-money laundering duties must collect information regarding beneficial owners and are required to provide the information to the authorities for crime investigations, on request.⁷

The FATF has determined that Finland should adopt appropriate measures to ensure mitigation of the misuse of legal persons.⁸

Inadequacies in legal framework

A plea-bargaining regime was introduced in Finland in 2015. While the OECD WGB welcomed this, in its 2017 and 2019 reviews of Finland it raised concerns as to its lack of applicability to legal persons.⁹ In relation to individuals, there are few incentives to enter into a plea bargain, given the current extremely low likelihood of conviction in Finland. The OECD WGB also recommended that Finland increase the maximum criminal corporate fine under Chapter 9 of the Criminal Code.¹⁰ This has yet to occur and is not being considered by the government.¹¹

Finland lacks clear, comprehensive whistleblower protection legislation, with provisions fragmented across different regulatory instruments specific to sectoral laws. The country has been working on national legislation relevant to whistleblower protection and is now considering how to incorporate the requirements of the EU Directive on Whistleblower Protection.¹²

Inadequacies in enforcement system

The OECD WGB expressed serious concern in 2019 about Finland's lack of enforcement.¹³ The OECD WGB Phase 4 Report highlights insufficient resources committed to foreign bribery cases, a lack of regular training for judges and the lack of specialisation of courts and judges. There have been some training initiatives on the quantification of the proceeds of bribery, but no written guidance has been provided to investigators and prosecutors.

Recommendations

- Publish statistics on foreign bribery investigations, cases commenced or cases concluded
- Make the Beneficial Ownership Register publicly available
- Increase the maximum penalty for corporate crime
- Introduce legislation and establish whistleblowing channels consistent with the EU Directive
- Increase resources for enforcement authorities to conduct foreign bribery investigations
- Provide training to law enforcement officials and the judiciary on the foreign bribery offence and its application, and consider assigning foreign bribery cases to courts or judges with specialised skills and experience
- Raise awareness of foreign bribery laws among exporting companies.

⁷ The FATF has determined that Finland should adopt appropriate measures to ensure mitigation of the misuse of legal persons, <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Finland-2019.pdf>

⁸ <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Finland-2019.pdf>

⁹ <https://www.oecd.org/corruption/anti-bribery/Finland-Phase-4-Report-ENG.pdf>; <http://www.oecd.org/corruption/Finland-phase-4-follow-up-report-ENG.pdf>

¹⁰ Legal persons are subject to a maximum fine of €850,000 (US\$988,000) for all criminal offences that attract corporate liability, <https://www.oecd.org/corruption/anti-bribery/Finland-Phase-4-Report-ENG.pdf>, p.42.

¹¹ <http://www.oecd.org/corruption/Finland-phase-4-follow-up-report-ENG.pdf>

¹² <http://www.oecd.org/corruption/Finland-phase-4-follow-up-report-ENG.pdf>, p.4.

¹³ <https://www.oecd.org/corruption/anti-bribery/Finland-Phase-4-Report-ENG.pdf>